REMARKS

Claims 1-66 are pending in this application. The Examiner requires restriction to one of the following inventions under 35 U.S.C. §121:

I. Claims 1-31, drawn to a compound, classified in class 514, Subclass 2.

II. Claims 32-44, drawn to a method of inhibiting human immunodeficiency virus infection of a CD4+ cell, classified in class 424, subclass 188.1.

III. Claims 45-63, drawn to a method of identifying an agent which inhibits binding of a CCR5 ligand to a CCR5 receptor, classified in class 435, subclass 7.1.

IV. Claim 64 and 66, drawn to a composition, classified in class 514, subclass 2.

V. Claims 65-66, drawn to a composition, classified in class 514, subclass 2.

The Examiner stated that the inventions are distinct, each from the other, because of the following reasons.

The Examiner stated that the inventions of Groups I, IV and V are patentably distinct from each other because they are drawn to different products having different structures and functions. The Examiner stated that the polypeptides of Groups I, IV and V are composed of amino acids linked by peptide bonds and can assume complex tertiary structures. The Examiner stated that the polypeptides are structurally distinct chemical compounds and are unrelated to one another.

The Examiner stated that the inventions of Groups II and III are unrelated. The Examiner stated that inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions or different effects (citing MPEP 806.04, MPEP 808.01). The Examiner stated that in the instant application, the different inventions have different functions. The Examiner stated that the invention of Group II is to inhibit human immunodeficiency virus from infecting a CD4+ cell. The Examiner stated that the invention of Group III is identifying an agent which inhibits binding of a CCR5 ligand to a CCR5 receptor.

The Examiner stated that because the inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

The Examiner stated that Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (citing 37 C.F.R. 1.143).

In response to the present restriction and/or election requirement among claims 1-66, applicants' undersigned attorney, on behalf of applicants, hereby elects, with traverse, to prosecute the claims of the Examiner's Group I, claims 1-31 drawn to a compound and classified in Class 514, Subclass 2.

Applicants, however, respectfully request that the Examiner reconsider and withdraw the restriction requirement with respect to Groups I-III. Under 35 U.S.C. §121, restriction may be required if two or more distinct inventions are claimed in one application.

The inventions of Groups I-III are not independent. Under M.P.E.P. §802.01, "independent" means that there is no disclosed relationship between the subject matter claimed. The inventions of Groups I-III are drawn to (I) a compound comprising the structure θαYDINYYTSβλ, (II) a method of inhibiting human immunodeficiency virus infection of a CD4+ cell by contacting the cell with the compound of Group I, and (III) a method of identifying an agent which inhibits binding of a CCR5 ligand to a CCR5 receptor using the compound of Group I. Applicants therefore maintain that Groups I-III are not independent and restriction is not proper.

Furthermore, under M.P.E.P. §803, the Examiner must examine the application on the merits if examination can be made without serious burden, even if the application were to include claims to distinct or independent inventions. That is, there are two criteria for a proper requirement for restriction: (1) the invention must be independent and distinct, and (2) there must be a serious burden on the Examiner if restriction were not required.

Applicants respectfully submit that there would not be a serious burden on the Examiner if restriction were not required, because a search of the prior art relevant to the claims of Groups II-III would not require a serious burden once the prior art for Group I has been identified.

Therefore, there is no burden on the Examiner to examine Groups I-III together in the subject application. Hence, the Examiner must examine Groups I-III on the merits.

In view of the foregoing, applicants maintain that restriction among Groups I-III is not proper under 35 U.S.C. §121, and respectfully request that the Examiner reconsider and withdraw the requirement for restriction among said Groups.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants undersigned attorney invites the Examiner to telephone either of them at the number provided below.

No fee, other than the enclosed $210.00 fee for the extension of time, is deemed necessary in connection with the filing of this Amendment. However, if any additional fees are due, authorization is hereby given to charge the required amount of such fee(s) to Deposit Account No. 03-3125.

Respectfully submitted,

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